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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,631	11/01/2001	Andre F. A. Fournier	44375/24:1	4087
7590 02/13/2006				
Stoel Rives LLP 900 SW Fifth Avenue Ste 2600 Portland, OR 97204-1268		EXAMINER GESESSE, TILAHUN		
		ART UNIT 2684		
DATE MAILED: 02/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/016,631	Applicant(s) FOURNIER ET AL.	
	Examiner Tilahun B. Gesesse	Art Unit 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-13,27 and 29-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-13,27 and 29-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 52-58 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to applicant's amendment and applicant's argument filed November 1, 2005.

Election/Restrictions

2. Newly submitted claims 52-58 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: selecting the mute interval; automatically un-muting the voice communication on the call.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 52-58 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Specification

3. The amendment filed 11/21/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention.

Claims 44-51 has material, which is not supported by the original disclosure.

The added material, which is not supported by the original disclosure, is as follows:

Automatically un-muting the voice communication on the call.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1,5-13,27,29-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Krasner (US 6,799,050).

As to claims 1,27,29, Krasner discloses a method of wireless communication of digital data (col. 7, line 53-column 8, line 7 and figure 2) comprising:

Krasner discloses providing a mobile unit (figure 2 item #150) having a plurality of alternative modes of digital wireless communication (voice and data see figures 4-6).

Krasner teaches operating the mobile unit to assess at least a selected characteristic of each of the alternative modes (column 5, line 20-col. 7 line 39) based on the assessment ,determining a preferred mode (column 5, line 20-col. 7 line 39),

Krasner discloses the preferred mode is the voice mode , transmit data set for the mobile unit (150) in alternative way without significantly interrupting human speech communications over the same voice channel call (col. 8 line 8-col. 11 line 40 and figures 4-6).

Claim 5, Krasner discloses selecting from the group of characteristics comprising return signal strength, cellular roaming (column 7, lines 24-40).

Claims 6,48 Krasner discloses the selected characteristic is the result of a function of at least a plurality of the members of the group of characteristics (column 6, lines 1-36).

Claims 7,47, Krasner discloses transmitting the data to a call center for processing (phone network 310), and receiving from the call center a communication including digital data based on the transmitted data (column 6, lines 1-36).

Claims 8,30, Krasner teaches receiving a geographic location signal at the mobile and processing location signal to form location data (column 6, lines 1-10).

Claims 9-10,46 Krasner teaches receiving a geographic location signal at the mobile and transmission to the call center comprises the location data. and the second digital data set received from the call center comprises location information (see figure 3(col. 8 line 8-col. 11 line 40 and figures 4-6).

Claims 11,13 and 41-43 Krasner discloses transmitting occurs in response to a communication received from a location apart from the mobile unit (column 6, lines 63-coumn 7, line 10).

Claims 31,33,44-45 Krasner discloses a method of sending geographic location data from a wireless telephone mobile unit (150 of figure 3) comprising:

Krasner discloses at the mobile unit,(150)receiving an external request to send location data (PGS data from the GPS satellite through GPS receiver)

Krasner discloses responsive to said extremely request (GPS) , obtaining location

data from a GPS unit coupled to the mobile unit (see figures 4-6)

Krasner discloses determining whether a voice mode is a primary transmission mode for location data transmission (col. 8 line 8-col. 11 line 40 and figures 4-6).

Krasner discloses a voice mode is the primary transmission mode for location data transmission, determining whether a call is currently active if no call is currently active, (see figure 4-6).

Krasner discloses establishing a voice mode call over a voice channel to a predetermined call center (see switch , of figure 3)

Krasner discloses converting the location data to a selected format for transmission allover the voice channel; muting the call and then transmitting the location data ' over the voice channel to the call center (column 6, line 1-column 11, line 40).

Claim 32. Krasner discloses receiving acknowledgement from the call center that the location data was received; and, in response to the acknowledgement, discontinue said muting the voice mode call (see figure 3)

Claim 33. Krasner inherently discloses the call center is a 91 1 emergency call receiving center (if the call made using mobile unit 150 , emergency call or 911 , the switch center (see figure 3, (col. 8 line 8-col. 11 line 40 and figures 4-6).

Claims 34- 35. Krasner discloses buffering voice signals generated during said muting interval; time compressing said buffered voice signals; and replaying said buffered and compressed voice signals immediately a user a conclusion of said muting

interval so as to minimize loss of voice information (column 9, lines 28-column 10 lines 51 and figure 5,col. 4,lines 11-34)

Claims 36-37. Krasner discloses the external request comprises pressing a button located on the mobile limit (see figure 5).

Claim 38-40, Krasner discloses the external request comprises a query from an entity located remote from the wireless telephone mobile unit the query from an entity located remote from the wireless telephone mobile unit is transmitted to the mobile unit via a voice mode call ((col. 8 line 8-col. 11 line 40 and figures 4-6).

Claim 49-50, Krasner discloses transmitting the determined location-specific information from the call center to the mobile unit over the established voice mode call (see figures 3-6, col. 8 line 8-col. 11 line 40 and figures 4-6).

Claim 51, Krasner discloses at the call center, determining a signal quality of the voice mode call at the call center and signaling the mobile unit to change transmission mode if predetermined signal quality criteria are not met (column 6, lines 63-column 7, line 45).

Response to Arguments

Applicant's arguments with respect to claims 1,5-13,27,29-51 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

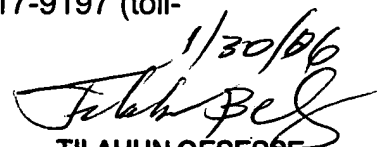
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882.

The Central FAX Number will change to 571-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1/30/06

TILAHUN GESESSE
PRIMARY EXAMINER